

REMARKS

Applicants appreciate the Examiner's thorough review of the present application, and respectfully request reconsideration in light of the preceding amendments and the following remarks.

Claims 30-31, 33, 36-37, 39, 41-43, 47, 49-50, 52, 56, 58-63 are pending in the application. Claims 32, 34-35, 38, 40, 44-46, 48, 51, 53-55, and 57 have been cancelled without prejudice or disclaimer. The remaining claims have been amended to better define the claimed invention. New claims 59-63 have been added to provide Applicants with the scope of protection to which they are believed entitled. No new matter has been introduced through the foregoing amendments.

The 35 U.S.C. 103(a) rejection relying on *Fisher* is noted. Applicants respectfully traverse the rejection, because the Examiner has failed to properly establish a *prima facie* case of obviousness.

The Examiner alleges that *Fisher* discloses the claimed subscription information storage unit which stores a subscription total number or a subscription total amount as a condition for inviting bids. *See* page 2, paragraph 4 of the Official Action. It is apparent from the Examiner-identified portion of the reference, i.e., col. 8 lines 45-49, that *Fisher* fails to disclose or suggest to a person of ordinary skill in the art to use a subscription information storage unit which stores a subscription total number or subscription total amount as a condition for inviting bids in the presently claimed manner. For example, *Fisher* discloses a system that can check to see if any new items for sale are to be opened by examining the merchandise database, examine the merchandise database to see if any merchandise items are posted with a price markdown and to see if any merchandise items are scheduled to be closed and performs these functions accordingly. However, the reference fails to disclose or suggest any condition for inviting bids for the transaction item. The obviousness rejection of claims 30-58 is therefore inappropriate and should be withdrawn.

Notwithstanding the above and solely for the purpose of expediting prosecution, Applicants have amended the independent claims to specifically define the claimed invention over *Fisher*.

In particular, the independent claims have been extensively amended to specify how to determine the successful bid number(s) in accordance with the claimed invention.

Specifically, the same successful bid price is allotted to all the bidders. More specifically, the number of successful bids remaining at the time when a cumulative bid number or a cumulative bid amount of the bids placed by a plurality of bidders exceeds the subscription total number or the subscription total amount, respectively, is proportionately allotted to those bidders consisting of (i) the bidder who generates the excess and (ii) bidders who present the same bid unit price as the bidder who generates excess. The remaining number of successful bids is allotted proportionately to the bid total number or the bid total amount of the bidder or by lot. Thus, the allotment of the remaining successful bid numbers is reasonably determined by one bidding without rebidding.

The above discussed features are now positively recited in the independent claims, and are neither disclosed, taught nor suggested by *Fisher*. Accordingly, Applicants respectfully submit that the amended claims are all patentable over the applied art of record.

New independent claim 59 is patentable over *Fisher* for at least the reason traversing the rejection of the original claims, i.e., the reference fails to disclose or suggest any condition for inviting bids for the transaction item. New claim 59 is also patentable over *Fisher* because the reference does not fairly teach or suggest numerous units recited in the body of claim 59, especially, the claimed selecting unit operable to select a bidder who can participate in the bidding for the transaction item, based in the bidder information stored in the bidder information storage unit and the reference information stored in the reference information storage unit.

New independent claim 60 is patentable over *Fisher* for at least the reason traversing the rejection of the original claims, i.e., the reference fails to disclose or suggest any condition for inviting bids for the transaction item. New claim 60 is also patentable over *Fisher* because the reference does not fairly teach or suggest the claimed successful bid number determination unit which is operable (i) to determine successful bid numbers, and (ii) when the bid total amount is included in bid information stored in the bid information storage unit, to recalculate a bid number of each bidder accumulated so far, based on the bid unit price presented by a bidder that becomes a

new basis of calculation, each time the cumulative bid number or a cumulative bid amount is calculated.

Claims 61-63 depend from claim 60, and are considered patentable at least for the reasons advanced with respect to claim 60. The dependent claims are also patentable on their own merits since these claims recite other features neither disclosed, taught nor suggested by the applied art, as will be apparent to the Examiner upon reviewing these claims.

Each of the Examiner's rejections has been traversed/overcome. Accordingly, Applicants respectfully submit that all claims are now in condition for allowance. Early and favorable indication of allowance is courteously solicited.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

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